

MEMORANDUM

September 12, 2012

TO: Public Safety Committee

FROM: Susan J. Farag, Legislative Analyst *SJF*

SUBJECT: Briefing: Office of Consumer Protection – New State Towing Law

Today, the Committee will receive a briefing on the State's new towing law, which goes into effect on October 1. The new law addresses many of the same towing provisions that are already regulated by County law, creating potential conflicts and/or ambiguities in how towing in the County should be regulated going forward. The following are expected to brief the Committee on these issues:

Eric Friedman, Director of the Office of Consumer Protection
Sgt. James Snow, Police Department
Doug Numbers, OCP
Sharon Margolis, OCP
Jim Parks, OCP

BACKGROUND

Currently, towing services are regulated by the County.¹ There are three primary types of towing services performed in the County, including a: (1) trespass tow, where a towing company removes a vehicle not authorized to be on private property; (2) police tow, where the police remove a vehicle from an accident or crime scene, or for some other law enforcement purpose; and (3) consumer-requested contractual tow, where the consumer hires a towing company to transport a disabled vehicle.

A trespass tow is regulated by the Office of Consumer Protection, and complaints about unauthorized towing are a significant portion of OCP's casework. Police are also often called to handle these complaints when consumers return to their parking space and find their cars missing. OCP has provided a chart showing towing complaints by location from 2010 – 2012 (© 33). Over the past two years, there have been 129 complaints in Silver Spring, 51 in Rockville, 48 in Bethesda, 29 in Germantown, and many others throughout the County.

¹ Chapters 30C, 31A, and 31 of Code of Montgomery County Regulations

Police tows are regulated by the Police Department. Consumer-requested tows are not generally regulated, other than requiring towing companies to be registered with OCP and properly insured.

During the 2012 State legislative session, the General Assembly passed State legislation that establishes a State-wide regulatory framework over towing services (©1-24). ***The bill takes effect October 1, 2012.*** The new State law contains several provisions that governs towing provisions already governed by County regulation, such as required signage on residential or commercial property, the distance a vehicle may be towed, towing and storage rates, mandatory police notification, mandatory hours at storage facilities, and the legal liabilities of various parties.

In order to prevent potential conflicts in law, the State law provides that *“nothing in this subtitle prevents a local authority from exercising any power to adopt local laws or regulations relating to the registration or licensing of persons engaged in, or otherwise regulating in a more stringent manner, the parking, towing, or removal, or impounding of vehicles.”* This language requires County authorities to go through the new State law line-by-line to determine whether State or County law will prevail in any given situation. OCP and the County Attorney’s office have provided a comparison chart showing the differences between State and County laws (see © 30-32). The chart also identifies whether County or State law would control. ***This chart is a work in progress and may change before any County guidelines are issued to provide direction to towing companies, property owners, and consumers.***

DISCUSSION ISSUES

1. OCP and Police staff met with an original sponsor of this legislation to discuss potential conflicts of law and the possibility it will be burdensome on Montgomery County and/or other counties to implement (correspondence attached at ©34-38). Was a request made to sponsor changes during the next legislative session? What was the outcome of that meeting?
2. What are Executive staff doing to prepare for the changes in towing laws that are due to become effective October 1, 2012? What type of guidance will be provided to towing companies, private property owners, and consumers?
3. What impact is expected on OCP? On the Police Department?
4. There are several provisions that may cost towing companies, private property owners, and possibly consumers more money, such as changing signage requirements or requiring towing companies to be open 24 hours a day. What impact is expected on towing companies? On private property owners? Does OCP foresee these changes ultimately requiring any increase in rates?

5. What other challenges do the County, businesses, and consumers face?

<u>This packet includes the following:</u>	<u>©#</u>
New State Towing Law, Chapter 228 of 2012	1-24
Fiscal and Policy Note for Enrolled Bill SB 401	25-29
DRAFT Comparison Chart of State and County Towing Laws	30-32
Map of Towing Complaints, 2010 – 2012	33
OCP Correspondence with State Sponsor	34-38

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Chapter 228

(Senate Bill 401)

AN ACT concerning

Motor Vehicles – Towing Practices and Procedures

FOR the purpose of ~~establishing a motor vehicle towing, recovery, and storage lien on a towed motor vehicle on behalf of the tower for certain towing, recovery, and storage charges; prohibiting a motor vehicle towing, recovery, and storage lienor from selling the motor vehicle to which the lien is attached under certain circumstances; providing that a motor vehicle towing, recovery, and storage lienor may only sell a motor vehicle to which a lien is attached in a certain manner; requiring a motor vehicle towing, recovery, and storage lienor to return certain motor vehicle registration plates to the Motor Vehicle Administration under certain circumstances; requiring the Motor Vehicle Administration to provide a receipt for the return of certain motor vehicle registration plates; establishing certain notice and publication requirements for the public sale of a towed vehicle; requiring the Administration to issue a salvage certificate to the purchaser of an abandoned vehicle or a vehicle subject to a motor vehicle towing, recovery, and storage lien under certain circumstances; providing for the application process for a salvage certificate for an abandoned vehicle or a vehicle subject to a motor vehicle towing, recovery, and storage lien; requiring certain motor vehicle towing, recovery, and storage lienors to file a certain court action in a certain manner under certain circumstances; requiring the Motor Vehicle Administration to issue a certificate of title that contains a conspicuous "salvage" notation under certain circumstances; clarifying the application of certain security requirements for tow trucks; altering certain security requirements for tow trucks; altering certain penalties for certain violations related to tow truck vehicle registration; providing for the statewide application of certain provisions of law governing the towing or removal of vehicles from parking lots; repealing a certain provision exempting abandoned vehicles from the application of certain provisions relating to the towing and removal of vehicles from parking lots; altering the content required on certain signage related to the towing, recovery, and storage of vehicles; altering the maximum distance that, and the locations to which, a vehicle towed from a parking lot may be transported for storage, subject to a certain exception; altering certain maximum amounts that a person may charge for towing, recovering, and storing a vehicle under certain circumstances; authorizing a tower to charge certain persons for the actual costs of providing certain notice; ~~authorizing a tower to charge certain persons for the actual costs of providing certain notice;~~ altering the time period within which a tower is required to provide certain notice to certain police departments; requiring a tower to provide certain notice to certain persons within a certain time period after towing a vehicle from a~~

parking lot; requiring a tower to provide certain persons with certain itemized costs; requiring a tower to obtain certain photographic evidence from the parking lot owner before towing a vehicle from a parking lot; prohibiting a tower from towing a vehicle for a certain violation within a certain time period; requiring the Motor Vehicle Administration to establish and maintain a database containing certain addresses for certain insurers and make the database available to any tower free of charge; altering the storage facility to which a tower is required to transport a towed vehicle; prohibiting the removal of a towed vehicle from a certain storage facility for a certain time period; clarifying the required opportunity that certain persons must provide for the reclamation of a towed vehicle; requiring a tower to release a towed vehicle to certain persons under certain circumstances; requiring a storage facility for towed vehicles to accept payment in certain manners under certain circumstances and to make an automatic teller machine available on the premises under certain circumstances; requiring a storage facility that is in possession of a towed vehicle to make the vehicle available to certain persons for certain purposes; altering the persons eligible to seek certain civil damages from a tower under certain circumstances; altering certain penalties for certain towing violations; establishing certain penalties for violations relating to motor vehicle towing, recovery, and storage liens; making a certain stylistic change; making a certain technical correction; ~~altering a certain definition~~; and generally relating to motor vehicle towing practices and procedures.

~~BY repealing and reenacting, with amendments,
Article — Commercial Law
Section 16-202(e) and 16-207
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, without amendments,
Article — Commercial Law
Section 16-206
Annotated Code of Maryland
(2005 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,
Article — Transportation
Section ~~11-152, 13-506(b), (c), and (f), 13-507(b)~~, 13-920, 21-10A-01 through
21-10A-06, and 27-101(c)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

~~BY adding to
Article — Transportation
Section 13-506(c)
Annotated Code of Maryland~~

~~(2009 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Transportation
Section ~~13-507(a)(1) and (2)~~ and 27-101(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – Commercial Law~~

~~16-202.~~

~~(e) (1) Any person who, with the consent of the owner, has custody of a motor vehicle and who, at the request of the owner, provides a service to or materials for the motor vehicle, has a lien on the motor vehicle for any charge incurred for any:~~

- ~~(i) Repair or rebuilding;~~
- ~~(ii) Storage; or~~
- ~~(iii) Tires or other parts or accessories.~~

~~(2) A lien is created under this subsection when any charges set out under [paragraph (1) of] this subsection giving rise to the lien are incurred.~~

~~(3) FOR A MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OF 10,000 POUNDS OR LESS, ANY PERSON WHO TOWS OR REMOVES FROM A PARKING LOT MOTOR VEHICLES ON BEHALF OF A PRIVATE PARKING LOT OWNER OR AGENT IN ACCORDANCE WITH TITLE 21, SUBTITLE 10A OF THE TRANSPORTATION ARTICLE HAS A LIEN ON THE MOTOR VEHICLE FOR ANY CHARGE INCURRED FOR THE TOWING, RECOVERY, OR STORAGE OF, AND PROVIDING ANY REQUIRED NOTICE REGARDING, THAT MOTOR VEHICLE.~~

~~16-206.~~

~~(a) (1) If the owner of property subject to a lien disputes any part of the charge for which the lien is claimed, he may institute appropriate judicial proceedings.~~

~~(2) Institution of the proceedings stays execution under the lien until a final judicial determination of the dispute.~~

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~~(b) (1) If the owner of property subject to a lien disputes any part of the charge for which the lien is claimed, he immediately may repossess his property by filing a corporate bond for double the amount of the charge claimed.~~

~~(2) The bond shall be filed with and is subject to the approval of the clerk of the court of the county where the services or materials for which the lien is claimed were provided.~~

~~(3) The bond shall be conditioned on:~~

~~(i) Full payment of the final judgment of the claim, together with interest;~~

~~(ii) All costs incident to the bringing of suit; and~~

~~(iii) All cost and expenses which result from the enforcement of the lien and are incurred before the lienor was notified that the bond was filed.~~

~~(4) Filing of the bond stays execution under the lien until final judicial determination of the dispute.~~

~~(5) If service of process by a lienor on the owner is returned non est after filing of a bond, service may be made by publication as in the case of a suit against a nonresident.~~

~~(6) If suit is not instituted by the lienor within six months after the bond is filed, the bond is discharged.~~

~~16-207.~~

~~(a) (1) [1] SUBJECT TO SUBSECTION (C) OF THIS SECTION WITH RESPECT TO MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIENS, AND EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF the charges which give rise to a lien are due and unpaid for 30 days and the lienor is in possession of the property subject to the lien, the lienor may sell the property to which the lien attaches at public sale. The sale shall be in a location convenient and accessible to the public and shall be held between the hours of 10 a.m. and 6 p.m.~~

~~(2) A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIENOR MAY NOT SELL THE MOTOR VEHICLE TO WHICH THE LIEN IS ATTACHED UNLESS:~~

~~(i) THE LOCAL JURISDICTION IN WHICH THE MOTOR VEHICLE WAS ACQUIRED LICENSES TOW TRUCK OPERATORS; AND~~

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~~(H) THE LIENOR IS LICENSED FOR THE TOWING AND REMOVAL OF MOTOR VEHICLES BY THAT LOCAL JURISDICTION.~~

~~(3) A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIENOR MAY ONLY SELL A MOTOR VEHICLE TO WHICH A LIEN IS ATTACHED THROUGH AN AUCTIONEER.~~

~~(4) (I) IF A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIENOR SELLS A MOTOR VEHICLE TO WHICH A LIEN IS ATTACHED, THE LIENOR SHALL RETURN ANY REGISTRATION PLATES FOR THE MOTOR VEHICLE IN ITS POSSESSION TO THE MOTOR VEHICLE ADMINISTRATION.~~

~~(H) THE MOTOR VEHICLE ADMINISTRATION SHALL PROVIDE THE LIENOR WITH A RECEIPT FOR ANY MOTOR VEHICLE REGISTRATION PLATES RETURNED UNDER THIS PARAGRAPH.~~

~~(b) (1) [The] SUBJECT TO SUBSECTION (B 1)(1) AND (2) OF THIS SECTION, THE lienor shall publish notice of the time, place, and terms of the sale and a full description of the property to be sold once a week for the two weeks immediately preceding the sale in one or more newspapers of general circulation in the county where the sale is to be held.~~

~~(2) In addition, EXCEPT AS PROVIDED IN SUBSECTION (B 1)(3) OF THIS SECTION, the lienor shall send the notice by registered or certified mail at least 10 days before the sale to:~~

~~(i) The owner of the property, all holders of perfected security interests in the property and, in the case of a sale of a motor vehicle or mobile home, the Motor Vehicle Administration;~~

~~(ii) The person who incurred the charges which give rise to the lien, if the address of the owner is unknown and cannot be ascertained by the exercise of reasonable diligence; or~~

~~(iii) "General delivery" at the post office of the city or county where the business of the lienor is located, if the address of both the owner and the person who incurred the charges is unknown and cannot be ascertained by the exercise of reasonable diligence.~~

~~(B 1) FOR A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN:~~

~~(1) NOTICE REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION SHALL INCLUDE THE NAMES OF THE OWNER OF THE MOTOR VEHICLE, THE INSURER OF RECORD, AND ANY PERFECTED SECURED PARTY;~~

~~(2) ANY REQUIRED NEWSPAPER PUBLICATION SHALL BE:~~

~~(i) PUBLISHED ONCE A WEEK FOR THE 3 WEEKS IMMEDIATELY PRECEDING THE PUBLIC SALE; AND~~

~~(ii) PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE MOTOR VEHICLE WAS ACQUIRED;~~

~~(3) THE LIENOR ALSO SHALL SEND A NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND A NOTICE BY FIRST CLASS MAIL AT LEAST 30 DAYS BEFORE THE PUBLIC SALE TO:~~

~~(i) THE LAST KNOWN REGISTERED OWNER OF THE MOTOR VEHICLE, THE INSURER OF RECORD, AND EACH SECURED PARTY, AS SHOWN IN THE RECORDS OF THE MOTOR VEHICLE ADMINISTRATION; OR~~

~~(ii) IF THE ADDRESS OF THE OWNER IS UNKNOWN AND CANNOT BE DETERMINED BY THE EXERCISE OF REASONABLE DILIGENCE, THE PERSON WHO INCURRED THE CHARGES THAT GIVE RISE TO THE LIEN;~~

~~(4) THE NOTICE SHALL:~~

~~(i) STATE THAT THE MOTOR VEHICLE HAS BEEN TAKEN INTO CUSTODY;~~

~~(ii) DESCRIBE THE YEAR, MAKE, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF THE MOTOR VEHICLE;~~

~~(iii) GIVE THE LOCATION OF THE STORAGE FACILITY WHERE THE MOTOR VEHICLE IS HELD;~~

~~(iv) INFORM THE OWNER AND ANY SECURED PARTY OF ANY RIGHT TO RECLAIM THE MOTOR VEHICLE WITHIN THE TIME REQUIRED; AND~~

~~(v) STATE THAT THE FAILURE OF THE OWNER, INSURER OF RECORD, OR SECURED PARTY TO EXERCISE THE RIGHT TO RECLAIM THE MOTOR VEHICLE IN THE TIME REQUIRED MAY RESULT IN A PUBLIC SALE OF THE VEHICLE; AND~~

~~(5) THE LIENOR SHALL PUBLISH ELECTRONIC NOTICE OF THE PUBLIC SALE ON A WEB SITE DETERMINED BY REGULATIONS OF THE MOTOR VEHICLE ADMINISTRATION.~~

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~~(c) If a motor vehicle or mobile home which is subject to a lien is delivered by the lienor to the possession of a third party for storage, and the charges for storage are due and unpaid for 30 days or more, the third party holder is deemed to hold a perfected security interest in the motor vehicle or mobile home notwithstanding § 13-202 of the Transportation Article and may sell the motor vehicle or mobile home in the same manner as the lienor under this section if he has first published and sent notice as required of the lienor under this subtitle.~~

~~(d) (1) Except as provided in § 13-110 of the Transportation Article AND SUBSECTION (D-1) OF THIS SECTION, the Motor Vehicle Administration shall issue a CERTIFICATE OF title, free and clear of any lien, to the purchaser of any motor vehicle or mobile home sold under this section, if the holder of the lien on the motor vehicle or mobile home submits to the Motor Vehicle Administration a completed application for a certificate of title with:~~

~~(i) A copy of the newspaper publication required by subsection (b) of this section;~~

~~(ii) A copy of EACH OF the registered [or certified letter], CERTIFIED, OR FIRST CLASS LETTERS required under [subsection] SUBSECTIONS (b) AND (B-1) of this section to be sent to holders of perfected security interests in the motor vehicle or mobile home, THE INSURER OF RECORD, and the Motor Vehicle Administration, and the return card;~~

~~(iii) A copy of the registered or certified letters required by subsection (b) of this section to be sent to the owner of the motor vehicle or mobile home, and the return card;~~

~~(iv) If applicable, a written statement from the lienor that the lienor stored the vehicle in accordance with an agreement with an insurer;~~

~~(v) An auctioneer's receipt;~~

~~(vi) If applicable, certification by holders of perfected security interests;~~

~~(vii) In the case of mobile homes manufactured after 1976 and motor vehicles, a pencil tracing of the vehicle identification number or a statement certifying the vehicle identification number, and~~

~~(viii) Any other reasonable information required in accordance with regulations adopted by the Administration.~~

~~(2) The Department of Natural Resources shall issue a title, free and clear of any liens, to the purchaser of any boat sold under this section.~~

~~(D-1) THE MOTOR VEHICLE ADMINISTRATION SHALL ISSUE A SALVAGE CERTIFICATE, FREE AND CLEAR OF ANY LIEN, TO THE PURCHASER OF ANY MOTOR VEHICLE SOLD UNDER THIS SECTION THAT IS SUBJECT TO A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN, IF THE HOLDER OF THE LIEN ON THE MOTOR VEHICLE SUBMITS TO THE MOTOR VEHICLE ADMINISTRATION A COMPLETED APPLICATION FOR A SALVAGE CERTIFICATE WITH:~~

~~(1) THE DOCUMENTS A LIENOR IS REQUIRED TO SUBMIT WITH AN APPLICATION FOR A CERTIFICATE OF TITLE UNDER SUBSECTION (D)(1)(I) THROUGH (VI) OF THIS SECTION;~~

~~(2) A DIGITAL IMAGE OF THE VEHICLE IDENTIFICATION NUMBER OR A STATEMENT CERTIFYING THE VEHICLE IDENTIFICATION NUMBER;~~

~~(3) A COPY OF THE NATIONWIDE VEHICLE HISTORY REPORT;~~

~~(4) IN THE CASE OF A MOTOR VEHICLE BEING PURCHASED BY A NONINDIVIDUAL, THE FEDERAL TAX IDENTIFICATION NUMBER OR THE MARYLAND COMPTROLLER TAX IDENTIFICATION NUMBER;~~

~~(5) THE DRIVER'S LICENSE OR IDENTIFICATION NUMBER AND STATE OF ISSUANCE OF THE PERSON APPLYING FOR THE SALVAGE CERTIFICATE; AND~~

~~(6) ANY OTHER REASONABLE INFORMATION REQUIRED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE MOTOR VEHICLE ADMINISTRATION.~~

~~(e) (1) If the notice required under § 16-203(b) of this subtitle was sent, the proceeds of a sale under this section shall be applied, in the following order, to:~~

~~(i) The expenses of giving notice and holding the sale, including reasonable attorney's fees;~~

~~(ii) Subject to subsection (f) of this section, storage fees of the third party holder;~~

~~(iii) The amount of the lien claimed exclusive of any storage fees except as provided in subsection (f)(2) of this section;~~

~~(iv) A purchase money security interest; and~~

~~(v) Any remaining secured parties of record who shall divide the remaining balance equally if there are insufficient funds to completely satisfy their respective interests, but not to exceed the amount of a security interest.~~

~~(2) Except as provided in paragraph (3) of this subsection, if the notice required under § 16-203(b) of this subtitle was not sent, the proceeds of a sale under this section shall be applied, in the following order, to:~~

- ~~(i) A purchase money security interest;~~
- ~~(ii) All additional holders of perfected security interests in the property;~~
- ~~(iii) The expenses of giving notice and holding the sale, including reasonable attorney's fees;~~
- ~~(iv) Subject to subsection (f) of this section, storage fees of the third party holder;~~
- ~~(v) The amount of the lien claimed exclusive of any storage fees except as provided in subsection (f)(2) of this section;~~
- ~~(vi) Any remaining secured parties of record who shall divide the remaining balance equally if there are insufficient funds to completely satisfy their respective interest, but not to exceed the amount of a security interest.~~

~~(3) For a motor vehicle lien created under this subtitle, if the notice required under § 16-203(b) of this subtitle was not sent:~~

- ~~(i) The proceeds of a sale under this section shall be applied in the order described in paragraph (1) of this subsection; and~~
- ~~(ii) The amount of the lien claimed in paragraph (1)(iii) of this subsection may not include any amount for storage charges incurred or imposed by the lienor.~~

~~(4) After application of the proceeds in accordance with paragraph (1) or (2) of this subsection, any remaining balance shall be paid to the owner of the property.~~

~~(f) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, IF property is stored, storage fees of the third party holder may not exceed \$5 per day or a total of \$300.~~

~~(2) The exclusion or limitation of any storage fees as provided in subsection (c)(1)(iii) of this section and paragraph (1) of this subsection does not apply~~

~~to any person who conducts auctions as a business in this State, and is required to maintain records under § 15-113 of the Transportation Article, and that person is also exempt from the maximum storage fee limits under this subsection.~~

~~(2) The notice requirements of § 16-203(b) of this subtitle do not apply when:~~

~~(i) The lienor conducts auctions as a business in this State and is required to maintain records under § 15-113 of the Transportation Article; and~~

~~(ii) The lien arises out of that business.~~

~~(4) FOR A MOTOR VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OF 10,000 POUNDS OR LESS TOWED IN ACCORDANCE WITH TITLE 21, SUBTITLE 10A OF THE TRANSPORTATION ARTICLE, THE TOTAL TOWING AND STORAGE FEES MAY NOT EXCEED \$1,200.~~

~~(G) FOR A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN ON A MOTOR VEHICLE THAT HAS AN AVERAGE WHOLESALE VALUE OF MORE THAN \$5,000 AS SHOWN IN A NATIONAL PUBLICATION OF USED MOTOR VEHICLE VALUES ADOPTED FOR USE BY THE MOTOR VEHICLE ADMINISTRATION, THE LIENOR SHALL:~~

~~(1) FILE AN ACTION IN CIRCUIT COURT FOR A DECLARATORY JUDGMENT TO SELL THE MOTOR VEHICLE AND PROPERLY DISPOSE OF THE PROCEEDS OF THE SALE; AND~~

~~(2) PROPERLY JOIN ALL PARTIES IN THE ACTION, INCLUDING ANY SECURED PARTY AND INSURER OF RECORD.~~

~~(H) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION THAT GOVERN A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

~~Article Transportation~~

~~11-152.~~

~~(a) "Salvage" means any vehicle that:~~

~~(1) Has been damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the cost to repair the vehicle for legal operation on a highway exceeds 75% of the fair market value of the vehicle prior to sustaining the damage, as determined under § 13-506(e)(4) of this article;~~

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~~(2) Has been acquired by an insurance company as a result of a claim settlement; **or**~~

~~(3) Has been acquired by an automotive dismantler and recycler:~~

~~(i) As an abandoned vehicle, as defined under § 25-201 of this article; **or**~~

~~(ii) For rebuilding or for use as parts only; **OR**~~

~~(4) HAS BEEN ACQUIRED AT A PUBLIC SALE:~~

~~(i) FOR ABANDONED VEHICLES UNDER TITLE 25, SUBTITLE 2 OF THIS ARTICLE; **OR**~~

~~(ii) FOR VEHICLES SUBJECT TO A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN UNDER § 16-207 OF THE COMMERCIAL LAW ARTICLE.~~

~~(b) For purposes of this section, a vehicle has not been acquired by an insurance company if an owner retains possession of the vehicle upon settlement of a claim concerning the vehicle by the insurance company.~~

~~13-506.~~

~~(b) The Administration shall issue a salvage certificate:~~

~~(1) To an insurance company or its authorized agent that:~~

~~(i) Is licensed to insure automobiles in this State;~~

~~(ii) Acquires a vehicle as the result of a claim settlement; and~~

~~(iii) Within 10 days after the date of settlement, applies for a salvage certificate as provided in subsection (c) of this section;~~

~~(2) To an automotive dismantler and recycler that:~~

~~(i) Acquires a salvage vehicle from a source other than an insurance company licensed to insure automobiles in this State;~~

~~(ii) Acquires a salvage vehicle by a means other than a transfer of a salvage certificate; and~~

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~~(iii) Applies for a salvage certificate as provided in subsection (d) of this section; [or]~~

~~(3) TO A PERSON WHO:~~

~~(i) ACQUIRES AT A PUBLIC SALE:~~

~~1. AN ABANDONED VEHICLE UNDER TITLE 25, SUBTITLE 2 OF THIS ARTICLE; OR~~

~~2. A VEHICLE THAT IS SUBJECT TO A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN UNDER § 16-207 OF THE COMMERCIAL LAW ARTICLE; AND~~

~~(ii) APPLIES FOR A SALVAGE CERTIFICATE AS PROVIDED IN SUBSECTION (E) OF THIS SECTION; OR~~

~~(4) To any other person who:~~

~~(i) Acquires or retains ownership of a vehicle that is salvage, as defined in § 11-152 of this article;~~

~~(ii) Applies for a salvage certificate on a form provided by the Administration; and~~

~~(iii) Pays a fee established by the Administration.~~

~~(E) (1) A PERSON WHO ACQUIRES A VEHICLE AT A PUBLIC SALE DESCRIBED IN SUBSECTION (B)(3)(i) OF THIS SECTION MAY APPLY FOR A SALVAGE CERTIFICATE ON A FORM PROVIDED BY THE ADMINISTRATION.~~

~~(2) THE APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ACCOMPANIED BY:~~

~~(i) THE DOCUMENT THROUGH WHICH OWNERSHIP OF THE VEHICLE WAS ACQUIRED;~~

~~(ii) FOR A VEHICLE THAT WAS SUBJECT TO A MOTOR VEHICLE TOWING, RECOVERY, AND STORAGE LIEN, DOCUMENTATION REQUIRED UNDER § 16-207(D-1) OF THE COMMERCIAL LAW ARTICLE; AND~~

~~(iii) A FEE ESTABLISHED BY THE ADMINISTRATION.~~

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~~[(c)] (F)~~ ~~The Administration shall maintain records to indicate that a vehicle:~~

- ~~(1) Was transferred as salvage; and~~
- ~~(2) May not be titled or registered for operation in this State except in accordance with §§ 13-506.1 and 13-507 of this subtitle.~~

~~[(f)] (G)~~ ~~The Administration shall establish a fee for:~~

- ~~(1) A duplicate salvage certificate; and~~
- ~~(2) A corrected salvage certificate.~~

~~13-507.~~

~~(a) (1) An application for a certificate of title of a vehicle for which a salvage certificate has been issued shall be made by the owner of the vehicle on a form that the Administration requires.~~

~~(2) An application under paragraph (1) of this subsection shall be accompanied by:~~

~~(i) Except as provided in subsection (c)(3) of this section, the salvage certificate for the vehicle;~~

~~(ii) A certificate of inspection issued by a county police department or the Department of State Police; and~~

~~(iii) A certificate of inspection as required under Title 23 of this article.~~

~~(b) (1) The certificate of title issued by the Administration shall be:~~

- ~~(i) Issued in the name of the applicant; and~~
- ~~(ii) In a form as provided in this subsection.~~

~~(2) (i) The Administration shall issue a certificate of title that contains a conspicuous notation that the vehicle is "rebuilt salvage" if the salvage certificate accompanying the application bears a notation under § 13-506(e)(2)(ii)1 of this subtitle.~~

~~(ii) The Administration may not issue a certificate of title for a vehicle if the salvage certificate for the vehicle bears a notation under § 13-506(e)(2)(ii)2 of this subtitle.~~

~~(3) The Administration shall issue a certificate of title that contains a conspicuous notation that the vehicle is "Flood Damaged" if the salvage certificate accompanying the application bears a notation under § 13-506(e)(2)(ii)4 of this subtitle.~~

~~(4) The Administration shall issue a certificate of title that contains a conspicuous notation that the vehicle is "X Salvage" if the salvage certificate accompanying the application bears a notation under § 13-506(e)(2)(ii)5 of this subtitle or is issued under § 13-506(d) OR (E) of this subtitle.~~

Article - Transportation

13-920.

(a) (1) In this section, "tow truck" means a vehicle that:

(i) Is a Class E (truck) vehicle that is designed to lift, pull, or carry a vehicle by a hoist or mechanical apparatus;

(ii) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or more; and

(iii) Is equipped as a tow truck or designed as a rollback as defined in § 11-151.1 of this article.

(2) In this section, "tow truck" does not include a truck tractor as defined in § 11-172 of this article.

(b) When registered with the Administration every tow truck as defined in this section is a Class T vehicle.

(c) A tow truck registered under this section may be used to tow vehicles for repair, storage, or removal from the highway.

(d) (1) Subject to the provisions of paragraph (2) of this subsection, for each vehicle registered under this section, the annual registration fee is based on the manufacturer's gross vehicle weight rating as follows:

Manufacturer's Gross Weight Rating (in Pounds)	Fee
10,000 (or less) to 26,000	\$185.00
More than 26,000	\$550.00

(2) (i) The annual registration fee for a vehicle registered under this section that is used for any purpose other than that described in subsection (c) of

this section shall be determined under subparagraph (ii) of this paragraph if the maximum gross weight of the vehicle or combination of vehicles:

1. Exceeds 18,000 pounds and the vehicle has a manufacturer's gross weight rating of 26,000 pounds or less; or

2. Exceeds 35,000 pounds and the vehicle has a manufacturer's gross weight rating of more than 26,000 pounds.

(ii) The annual registration fee shall be the greater of:

1. The fees set forth in paragraph (1) of this subsection;

or

2. The fees set forth in § 13-916(b) of this subtitle.

(e) Notwithstanding §§ 24-104.1, 24-108, and 24-109 of this article, a tow truck registered under this section, while engaged in a tow, may move a vehicle or vehicle combination on a highway for safety reasons if:

(1) The tow truck and the vehicle or vehicle combination being towed comply with all applicable statutory weight and size restrictions under Title 24 of this article when measured or weighed separately; and

(2) The vehicle or vehicle combination is being towed by the safest and shortest practical route possible to the vehicle's destination.

(f) Notwithstanding any other provision of this section, while engaged in towing, a tow truck registered under this section is subject to:

(1) Weight restrictions imposed on restricted bridges; and

(2) All applicable statutory weight and size restrictions under Title 24 of this article while being operated within the limits of Baltimore City, unless the vehicle is being operated on an interstate highway.

(g) Except for tow trucks operated by dealers, automotive dismantlers and recyclers, and scrap processors displaying special registration plates issued under this title, the vehicle shall display a distinctive registration plate as authorized by the Administration.

(h) Subject to § 25-111.1 of this article, a person who registers a tow truck under this section, **INCLUDING A DEALER, AN AUTOMOTIVE DISMANTLER AND RECYCLER, OR A SCRAP PROCESSOR WHO OPERATES A TOW TRUCK IN THE STATE**, or **A PERSON WHO** operates a tow truck in this State that is registered under the laws of another state, shall:

(1) Obtain commercial liability insurance in the amount [of at least \$100,000 per person, \$300,000 per occurrence bodily injury liability, and \$100,000 per occurrence property damage liability] **REQUIRED BY FEDERAL LAW FOR TRANSPORTING PROPERTY IN INTERSTATE OR FOREIGN COMMERCE**; and

(2) Provide a federal employer identification number and, if applicable to the tow truck under federal requirements:

(i) A U.S. Department of Transportation motor carrier number;
or

(ii) An Interstate Commerce Commission motor carrier authority number.

(i) (1) Except as provided under paragraph (2) of this subsection, a person may not operate a rollback in combination with a vehicle being towed unless the rollback is registered as a tow truck.

(2) This subsection does not apply to a vehicle that is registered and operated in accordance with § 13-621 or § 13-622 of this title.

(j) (1) This subsection applies only to a vehicle required to be registered in the State.

(2) A person may not operate a tow truck for hire unless the tow truck is registered under this section.

(3) (I) A person convicted of operating a tow truck in violation of this subsection shall be subject to a fine [of up to] **NOT EXCEEDING \$3,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

(II) **A TOW TRUCK THAT IS IMPROPERLY REGISTERED OR UNREGISTERED SHALL BE IMPOUNDED.**

21-10A-01.

(a) In this subtitle, "parking lot" means a privately owned facility consisting of 3 or more spaces for motor vehicle parking that is:

(1) Accessible to the general public; and

(2) Intended by the owner of the facility to be used primarily by the owner's customers, clientele, residents, lessees, or guests.

(b) (1) This subtitle applies only to the towing or removal of vehicles from parking lots [in Baltimore City or Baltimore County].

(2) Nothing in this subtitle prevents a local authority from exercising any power to adopt [ordinances] **LOCAL LAWS** or regulations relating to the registration or licensing of persons engaged in, **OR OTHERWISE REGULATING IN A MORE STRINGENT MANNER**, the parking, towing or removal, or impounding of vehicles.

~~(e) This subtitle does not apply to an abandoned vehicle as defined in § 25-201 of this article.~~

21-10A-02.

(a) The owner or operator of a parking lot or the owner's or operator's agent may not have a vehicle towed or otherwise removed from the parking lot unless the owner, operator, or agent has placed in conspicuous locations, as described in subsection (b) of this section, signs that:

(1) Are at least 24 inches high and 30 inches wide;

(2) Are clearly visible to the driver of a motor vehicle entering or being parked in the parking lot;

(3) State the location to which the vehicle will be towed or removed **AND THE NAME OF THE TOWING COMPANY;**

(4) State [the hours during which the vehicle may be reclaimed] **THAT STATE LAW REQUIRES THAT THE VEHICLE BE AVAILABLE FOR RECLAMATION 24 HOURS PER DAY, 7 DAYS PER WEEK;**

(5) State the maximum amount that the owner of the vehicle may be charged for the towing or removal of the vehicle; and

(6) Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vehicle by its owner or the owner's agent.

(b) The signs described in subsection (a) of this section shall be placed to provide at least 1 sign for every 7,500 square feet of parking space in the parking lot.

21-10A-03.

(A) A vehicle may not be towed or otherwise removed from a parking lot to a location that is [more]:

(1) **SUBJECT TO SUBSECTION (B) OF THIS SECTION, MORE than [10] 15 miles from the parking lot; OR**

(2) **OUTSIDE THE STATE.**

(B) **A LOCAL JURISDICTION MAY ESTABLISH A MAXIMUM DISTANCE FROM A PARKING LOT TO A TOWED VEHICLE STORAGE FACILITY THAT IS DIFFERENT THAN THAT ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS SECTION.**

21-10A-04.

(A) [A] **UNLESS OTHERWISE SET BY LOCAL LAW, A person who undertakes the towing or removal of a vehicle from a parking lot:**

(1) **May not charge the owner of the [vehicle or] VEHICLE, the owner's agent, THE INSURER OF RECORD, OR ANY SECURED PARTY MORE THAN:**

(i) **[More than twice] TWICE the amount of the total fees normally charged or authorized by the political subdivision for the PUBLIC SAFETY impound towing of vehicles; [and]**

(ii) **[Except as provided in] NOTWITHSTANDING § 16-207(f)(1) of the Commercial Law Article, [more than \$8 per day for storage] THE FEE NORMALLY CHARGED OR AUTHORIZED BY THE POLITICAL SUBDIVISION FROM WHICH THE VEHICLE WAS TOWED FOR THE DAILY STORAGE OF IMPOUNDED VEHICLES;**

(iii) **IF A POLITICAL SUBDIVISION DOES NOT ESTABLISH A FEE LIMIT FOR THE PUBLIC SAFETY TOWING, RECOVERY, OR STORAGE OF IMPOUNDED VEHICLES, ~~\$300~~ \$250 FOR TOWING AND RECOVERING A VEHICLE AND \$30 PER DAY FOR VEHICLE STORAGE; AND**

(iv) **THE ACTUAL COST OF PROVIDING NOTICE UNDER THIS SECTION ~~AND § 16-207 OF THE COMMERCIAL LAW ARTICLE; AND~~**

~~(v) FOR A VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OF 10,000 POUNDS OR LESS, \$1,200 \$1,000 FOR THE TOTAL OF ALL COSTS RELATED TO VEHICLE TOWING, RECOVERY, AND STORAGE AS CALCULATED UNDER THIS SECTION;~~

(2) **Shall notify the police department in the jurisdiction where the parking lot is located within [two hours] 1 HOUR after towing or removing the vehicle from the parking lot, and shall provide the following information:**

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- (i) A description of the vehicle including the vehicle's registration plate number and vehicle identification number;
- (ii) The date and time the vehicle was towed or removed;
- (iii) The reason the vehicle was towed or removed; and
- (iv) The locations from which and to which the vehicle was towed or removed;

(3) SHALL NOTIFY THE OWNER, ANY SECURED PARTY, AND THE INSURER OF RECORD BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL WITHIN ~~72 HOURS~~ 3 DAYS, EXCLUSIVE OF DAYS THAT THE TOWING BUSINESS IS CLOSED, AFTER TOWING OR REMOVING THE VEHICLE, AND SHALL PROVIDE THE SAME INFORMATION REQUIRED IN A NOTICE TO A POLICE DEPARTMENT UNDER ITEM (2) OF THIS SECTION SUBSECTION;

(4) SHALL PROVIDE TO THE OWNER, ANY SECURED PARTY, AND THE INSURER OF RECORD THE ITEMIZED ACTUAL COSTS OF PROVIDING NOTICE UNDER THIS SECTION AND ~~§ 16-207 OF THE COMMERCIAL LAW ARTICLE;~~

[(3)] (5) Before towing or removing the vehicle, shall have authorization of the parking lot owner which shall include:

- (i) The name of the person authorizing the tow or removal;
[and]
- (ii) A statement that the vehicle is being towed or removed at the request of the parking lot owner; AND

(III) PHOTOGRAPHIC EVIDENCE OF THE VIOLATION OR EVENT THAT PRECIPITATED THE TOWING OF THE VEHICLE;

[(4)] (6) Shall obtain commercial liability insurance in the amount [of at least \$20,000 per occurrence] REQUIRED BY FEDERAL LAW FOR TRANSPORTING PROPERTY IN INTERSTATE OR FOREIGN COMMERCE to cover the cost of any damage to the vehicle resulting from the person's negligence;

[(5) Shall obtain a surety bond in the amount of \$20,000 to guarantee payment of any liability incurred under this subtitle;

(6) (7) May not employ OR OTHERWISE COMPENSATE individuals, commonly referred to as "spotters", whose primary task is to report the

presence of unauthorized parked vehicles for the purposes of towing or removal, and impounding; [and]

[(7)] (8) May not pay any remuneration to the owner, AGENT, OR EMPLOYEE of the parking lot; AND

(9) MAY NOT TOW A VEHICLE SOLELY FOR A VIOLATION OF FAILURE TO DISPLAY A VALID CURRENT REGISTRATION UNDER § 13-411 OF THIS ARTICLE UNTIL 72 HOURS AFTER A NOTICE OF VIOLATION IS PLACED ON THE VEHICLE.

(B) THE ADMINISTRATION SHALL:

(1) ESTABLISH AND MAINTAIN A DATABASE CONTAINING THE PROPER ADDRESS FOR PROVIDING NOTICE TO AN INSURER UNDER SUBSECTION (A)(3) OF THIS SECTION FOR EACH INSURER AUTHORIZED TO WRITE A VEHICLE LIABILITY INSURANCE POLICY IN THE STATE; AND

(2) MAKE THE DATABASE AVAILABLE TO ANY TOWER FREE OF CHARGE.

21-10A-05.

(A) [If] SUBJECT TO SUBSECTION (B) OF THIS SECTION, IF a vehicle is towed or otherwise removed from a parking lot, the person in possession of the vehicle [shall]:

(1) [Immediately] SHALL IMMEDIATELY deliver the vehicle directly to [a] THE storage facility [customarily used by the person undertaking the towing or removal of the vehicle] STATED ON THE SIGNS POSTED IN ACCORDANCE WITH § 21-10A-02 OF THIS SUBTITLE; [and]

(2) MAY NOT MOVE THE TOWED VEHICLE FROM THAT STORAGE FACILITY TO ANOTHER STORAGE FACILITY FOR AT LEAST 72 HOURS; AND

(3) [Provide] SHALL PROVIDE the owner of the vehicle or the owner's agent immediate and continuous opportunity, 24 HOURS PER DAY, 7 DAYS PER WEEK, from the time the vehicle was received at the storage facility, to retake possession of the vehicle.

(B) BEFORE A VEHICLE IS REMOVED FROM A PARKING LOT, A TOWER WHO POSSESSES THE VEHICLE SHALL RELEASE THE VEHICLE TO THE OWNER OR AN AGENT OF THE OWNER:

(1) IF THE OWNER OR AGENT REQUESTS THAT THE TOWER RELEASE THE VEHICLE;

(2) IF THE VEHICLE CAN BE DRIVEN UNDER ITS OWN POWER;

(3) WHETHER OR NOT THE VEHICLE HAS BEEN LIFTED OFF THE GROUND; AND

(4) IF THE OWNER OR AGENT PAYS A DROP FEE TO THE TOWER IN AN AMOUNT NOT EXCEEDING 50% OF THE COST OF A FULL TOW.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A STORAGE FACILITY THAT IS IN POSSESSION OF A TOWED VEHICLE SHALL:

(I) ACCEPT PAYMENT FOR OUTSTANDING TOWING, RECOVERY, OR STORAGE CHARGES BY CASH OR AT LEAST TWO MAJOR, NATIONALLY RECOGNIZED CREDIT CARDS; AND

(II) IF THE STORAGE FACILITY ACCEPTS ONLY CASH, HAVE AN OPERABLE AUTOMATIC TELLER MACHINE AVAILABLE ON THE PREMISES.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF A STORAGE FACILITY IS UNABLE TO PROCESS A CREDIT CARD PAYMENT AND DOES NOT HAVE AN OPERABLE AUTOMATIC TELLER MACHINE ON THE PREMISES, THE STORAGE FACILITY SHALL ACCEPT A PERSONAL CHECK AS PAYMENT FOR OUTSTANDING TOWING, RECOVERY, AND STORAGE CHARGES.

(II) A STORAGE FACILITY MAY REFUSE TO ACCEPT A PERSONAL CHECK AS PAYMENT IF IT IS UNABLE TO PROCESS A CREDIT CARD FOR THE PAYMENT BECAUSE USE OF THE CREDIT CARD HAS BEEN DECLINED BY THE CREDIT CARD COMPANY.

(3) A STORAGE FACILITY THAT IS IN POSSESSION OF A TOWED VEHICLE SHALL MAKE THE VEHICLE AVAILABLE TO THE OWNER, THE OWNER'S AGENT, THE INSURER OF RECORD, OR A SECURED PARTY, UNDER THE SUPERVISION OF THE STORAGE FACILITY, FOR:

(I) INSPECTION; OR

(II) RETRIEVAL FROM THE VEHICLE OF PERSONAL PROPERTY THAT IS NOT ATTACHED TO THE VEHICLE.

Any person who undertakes the towing or removal of a vehicle from a parking lot in violation of any provision of this subtitle:

(1) Shall be liable for actual damages sustained by any person as a direct result of the violation; and

(2) Shall be liable to the vehicle owner, **A SECURED PARTY, AN INSURER, OR A SUCCESSOR IN INTEREST** for triple the amount paid by the owner or the owner's agent to retake possession of the vehicle.

27-101.

(a) It is a misdemeanor for any person to violate any of the provisions of the Maryland Vehicle Law unless the violation:

(1) Is declared to be a felony by the Maryland Vehicle Law or by any other law of this State; or

(2) Is punishable by a civil penalty under the applicable provision of the Maryland Vehicle Law.

(b) Except as otherwise provided in this section, any person convicted of a misdemeanor for the violation of any of the provisions of the Maryland Vehicle Law is subject to a fine of not more than \$500.

(c) Any person who is convicted of a violation of any of the provisions of the following sections of this article is subject to a fine of not more than \$500 or imprisonment for not more than 2 months or both:

(1) § 12-301(e) or (f) ("Special identification cards: Unlawful use of identification card prohibited");

(2) § 14-102 ("Taking or driving vehicle without consent of owner");

(3) § 14-104 ("Damaging or tampering with vehicle");

(4) § 14-107 ("Removed, falsified, or unauthorized identification number or registration card or plate");

(5) § 14-110 ("Altered or forged documents and plates");

(6) § 15-312 ("Dealers: Prohibited acts – Vehicle sales transactions");

(7) § 15-313 ("Dealers: Prohibited acts – Advertising practices");

(8) § 15-314 ("Dealers: Prohibited acts – Violation of licensing laws");



- (9) § 15-411 (“Vehicle salesmen: Prohibited acts”);
- (10) § 15-502(c) (“Storage of certain vehicles by unlicensed persons prohibited”);
- (11) § 16-113(j) (“Violation of alcohol restriction”);
- (12) § 16-301, except § 16-301(a) or (b) (“Unlawful use of license”);
- (13) § 16-303(h) (“Licenses suspended under certain provisions of Code”);
- (14) § 16-303(i) (“Licenses suspended under certain provisions of the traffic laws or regulations of another state”);
- (15) § 18-106 (“Unauthorized use of rented motor vehicle”);
- (16) § 20-103 (“Driver to remain at scene – Accidents resulting only in damage to attended vehicle or property”);
- (17) § 20-104 (“Duty to give information and render aid”);
- (18) § 20-105 (“Duty on striking unattended vehicle or other property”);
- (19) § 20-108 (“False reports prohibited”);
- (20) § 21-206 (“Interference with traffic control devices or railroad signs and signals”);
- (21) As to a pedestrian in a marked crosswalk, § 21-502(a) (“Pedestrians’ right-of-way in crosswalks: In general”), if the violation contributes to an accident;
- (22) As to another vehicle stopped at a marked crosswalk, § 21-502(c) (“Passing of vehicle stopped for pedestrian prohibited”), if the violation contributes to an accident;
- (23) Except as provided in subsections (f) and (q) of this section, § 21-902(b) (“Driving while impaired by alcohol”);
- (24) Except as provided in subsections (f) and (q) of this section, § 21-902(c) (“Driving while impaired by drugs or drugs and alcohol”);
- (25) § 21-902.1 (“Driving within 12 hours after arrest”); [or]

(26) **TITLE 21, SUBTITLE 10A (“TOWING OR REMOVAL OF VEHICLES FROM PARKING LOTS”); OR**

(27) § 27-107(d), (e), (f), or (g) (“Prohibited acts – Ignition interlock systems”).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 2, 2012.

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 401

(Senator Pugh, *et al.*)

Judicial Proceedings

Environmental Matters

Motor Vehicles - Towing Practices and Procedures

This bill generally implements certain Task Force to Study Motor Vehicle Towing Practices' recommended legislative changes relating primarily to the regulation of nonconsensual towing of vehicles from private property and the disposition of towed vehicles.

Fiscal Summary

State Effect: General fund revenues increase due to civil penalties established by the bill and application statewide of existing penalty provisions. General fund expenditures increase minimally due to the cost of incarceration and also to the extent that the workload of the District Court increases beyond what can be handled with existing resources. The Motor Vehicle Administration (MVA) can implement the bill with existing resources.

Local Effect: Local revenues may decrease in jurisdictions that currently have regulations regarding the towing of vehicles from private property that are less stringent than the bill, which may now be preempted from enforcing similar regulations and collecting associated fines. Local towing-related personnel expenditures are affected in some jurisdictions to implement the bill. Also, local expenditures increase minimally due to the cost of incarceration. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful adverse impact on towing services due to numerous restrictions on existing business practices, new fee limits, additional fines, criminal penalties, higher insurance requirements, and potentially the cost to acquire additional equipment.

Analysis

Bill Summary: The bill makes the current private parking lot towing protections for Baltimore City and Baltimore County applicable statewide. The bill also requires signage at private parking lots to include the name of the tow company and a statement that the vehicle can be reclaimed 24 hours per day, 7 days per week. The maximum tow distance is established to be not more than 15 miles or another limit established by a local government, and a vehicle may not be removed from a parking lot and towed out of state.

The bill establishes the towing and daily storage rates based on the limits set by the political subdivision for a public safety tow from which the vehicle was towed, or if no limit is established, no more than \$250 for towing and \$30 per day for storage. A tower may also charge the cost of providing notice by the lien holder, but the tower must also provide the itemized cost of giving this notice.

In addition, towing services are required to notify police within one hour of the tow and photograph the violation or event that precipitated the violation. The tower must provide specified notice to the owner of the vehicle, as well as any secured party, and the vehicle's insurer, within three days of the vehicle's removal from a parking lot, not including days that the towing business is closed. MVA must maintain a database of addresses for providing notice to an insurer and make the database available to towers free of charge. The bill also prohibits towing a vehicle solely for failing to display current registration, except until 72 hours have passed since a notice of the violation is placed on the vehicle.

The bill requires that a towed vehicle be moved immediately to the storage facility location indicated on the sign posted and prohibits the tower from moving the vehicle from that facility for at least 72 hours; it also requires a storage facility to be available 24 hours per day, 7 days per week. In addition, the bill sets a "drop fee" of one-half of the cost of the full towing charge.

The storage facility must accept as payment either cash or at least two major credit cards. If the facility accepts only cash, it must have an automated teller machine (ATM) on the premises. If the storage facility is unable to process a credit card payment (unless the payment was declined by the credit card company) and does not have an operable ATM on the premises, the storage facility must accept a personal check. Finally, the storage facility must make a towed vehicle available to the owner (or agent), secured party, or insurer, under supervision, for inspection or for retrieval of personal property not attached to the vehicle.

The bill does not prevent a local authority from adopting a law or regulation relating to the registration or licensing of towers or regarding a more stringent standard for parking, towing, removing, or impounding vehicles.

The minimum required insurance for tow trucks is increased to match federal requirements, and the bill clarifies that this requirement applies to certain tow trucks. The bill also eliminates the requirement to obtain a \$20,000 surety bond. Additional penalties for improperly registered tow trucks include impounding of the vehicle and imprisonment for up to one year.

Finally, the bill creates misdemeanor penalties for towing violations related to the removal of vehicles from private parking lots, including a fine of up to \$500 or up to two months imprisonment, or both.

Current Law: The Maryland Vehicle Law currently applies to the towing or removal of vehicles from parking lots in Baltimore City and Baltimore County and authorizes the Charles County Commissioners to adopt ordinances and regulations relating to the towing or removal of vehicles from privately owned parking lots in that county. In addition, the Maryland Vehicle Law authorizes law enforcement authorities or their agents to perform public safety towing.

Background: The Task Force to Study Motor Vehicle Towing Practices was created by Chapter 514 of 2008 and extended by Chapter 704 of 2009. The task force was charged with studying the following areas of towing:

- the State and local laws governing towing practices, including the storage and disposal of towed vehicles, and any recommended changes to these laws;
- the costs, benefits, and feasibility of a State program of licensure or registration for the towing industry;
- issues related to notice given by a private property owner to the owner of a motor vehicle before towing the vehicle;
- issues related to notice given by a police department to the motor vehicle owner, a secured party, or an insurer of an abandoned motor vehicle in police custody;
- issues related to notice given by a private tower to the motor vehicle owner, a secured party, an insurer, or the local police department of a towed vehicle in the possession of a private tower;

- issues related to State preemption of local authority governing the towing or removal of motor vehicles; and
- any other issues that the task force considers relevant to motor vehicle towing practices in the State.

The task force met 12 times between October 14, 2008, and December 8, 2009, and expired on December 31, 2009. Each meeting of the task force was open to the public. The task force considered two main proposals: (1) creation of an independent tow licensure board; and (2) focusing on private nonconsensual towing, the creation of penalties (civil and criminal), consumer protection measures, and allowing towers a process to dispose of unclaimed vehicles.

State Fiscal Effect: General fund revenues increase due to the statewide application of existing penalty provisions for violations of private parking lot towing protections that currently apply only in Baltimore City and Baltimore County. In addition to an increase in penalty revenues from the statewide application of existing penalty provisions, general fund revenues may increase due to new civil penalties established by the bill.

However, general fund expenditures also increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction facilities for convictions in Baltimore City. Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

General fund expenditures may also increase to the extent that the bill increases the workload of the District Court beyond what can be handled with existing resources. Additional contested cases will result from the additional fines authorized to be imposed as well as the creation of additional incarceration penalties.

Local Fiscal Effect: Local revenues may decrease in several jurisdictions statewide as local governments that currently regulate the towing of vehicles from private property in a less stringent manner may be preempted from enforcing similar regulations and collecting associated fines. Thus, revenues for some jurisdictions may decrease as certain local towing regulations and associated penalties are replaced by similar State provisions and applicable penalties. Consequently, local expenditures may decrease in jurisdictions that no longer decide to maintain towing enforcement staff at current levels.

However, local government expenditures may increase in some jurisdictions that will need to hire additional towing enforcement personnel to implement the bill. Expenditures may also increase minimally as a result of the bill's incarceration penalty.



The bill establishes new incarceration penalties and extends the application of existing incarceration penalties to additional jurisdictions and additional entities. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from \$60 to \$160 per inmate in recent years.

Additional Information

Prior Introductions: Bills encompassing similar provisions were introduced in the 2011 and 2010 sessions. SB 570 of 2011 and its cross file, HB 356, passed the House and Senate, but differences were not resolved by the conference committee. SB 788 of 2010 received no further action after a hearing in the Senate Judicial Proceedings Committee; whereas its cross file, HB 1120, passed in both the House and Senate with amendments but had no further action taken.

Cross File: HB 160 (Delegate Niemann, *et al.*) - Environmental Matters.

Information Source(s): Caroline, Howard, and Montgomery counties; Baltimore City; Office of the Attorney General (Consumer Protection Division); Governor's Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Task Force to Study Motor Vehicle Towing Practices; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2012
ncs/ljm Revised - Senate Third Reader - April 2, 2012
Revised - Enrolled Bill - May 16, 2012

Analysis by: Evan M. Isaacson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

DRAFT

**Montgomery County Office of Consumer Protection
2012 Towing Law Comparison**

Section	Subject	Maryland Provision	Section	Montgomery County Provision
21-10A-01	Definitions; applicability	state law only applies to towing from parking lots. Parking lot defined as a privately owned facility consisting of 3 or more spaces		county law applies to towing from private property. Private property is not defined, so is not limited to parking lots
21-10A-02	Signs	can't do towing unless have signs	30C-4(b)	can't do towing without public notice - but does not have to be signs - on residential property or commercial parking lot with more than 100 spaces can use sticker on vehicle - CONFLICT with state law - stickers cannot be used for parking lots
		signs must be at least 24x30; clearly visible to a driver entering or parked in the parking lot; and placed to provide at least 1 sign for every 7500 square feet of parking space		signs must be clearly readable from each parking area and each vehicle entrance; must be sized, printed and located so that it is readable in day and at night - state law and additional county requirements apply
		What signs must state: location to which vehicle will be towed and the name of the towing company; that state law requires that the vehicle be available for reclamation 24 hours per day, 7 days per week; the maximum amount that the owner of the vehicle may be charged for the towing or removal; provide the phone # of contact to arrange for reclaiming vehicle		Signs must: summarize all parking restrictions; indicate that vehicles violating restrictions may be towed at the vehicle owner's expense; and list phone number of towing service - state law and additional county requirements apply
21-10A-03	Location to which vehicles towed or removed	this section specifically says a local jurisdiction may establish a maximum distance that is different than that established by the state (state says can't tow more than 15 miles or outside the state)	30C-8	can't tow more than 12 miles - COUNTY max distance will apply
21-10A-04	Rights, duties and obligations of persons undertaking towing or removing vehicles	Subsection A specifically says "unless otherwise set by local law"		
		A(1) of this subsection deals with what is charged for towing and storage	30C-2	county law does set rates for towing and storage, so state law would NOT apply except that state law (A)(1)(IV) and (V) would apply

Montgomery County Office of Consumer Protection

2012 Towing Law Comparison

Section	Subject	Maryland Provision	Section	Montgomery County Provision
		A(2) deals with notification to the police	30C-5	county law does set requirements for notification to the police, so state law would NOT apply
		A(3) says shall notify the owner, secured party, and insurer of record by certified mail and first class mail within 3 days (notice shall provide the same information required in a notice to police under A(2))		county law does not require notification to owner, secured party and insurer, so state law WOULD apply
		A(4) says shall provide to the owner, secured party and insurer the itemized actual costs of providing notice		county law does not have a corresponding requirement, so state law WOULD apply
		A(5) deals with authorization	30C-4(c)	county law does set requirements for authorization, so state law would NOT apply
		A(6) requires commercial liability insurance in the amount required by federal law for transporting property in interstate or foreign commerce	31A-15	county law requires towers to carry, in addition to any coverage the state requires, a minimum of \$25,000 of insurance coverage, so BOTH would apply
		A(7) prohibits spotters (individuals whose primary task is to report the presence of unauthorized parked vehicles)		county law does not have a corresponding requirement, so state law WOULD apply
		A(8) prohibits payment to owner, agent or employee of parking lot	30C-10	county law does prohibit payment to a property owner, so state law would NOT apply
		A(9) prohibits towing solely for a violation of failure to display a valid current registration until 72 hours after a notice of violation is placed on the vehicle		county law does not have a corresponding requirement, so state law WOULD apply
21-10A-05	Delivery to storage facility; repossession by owner	no specific language about local laws so have to determine if regulating in a more stringent manner		

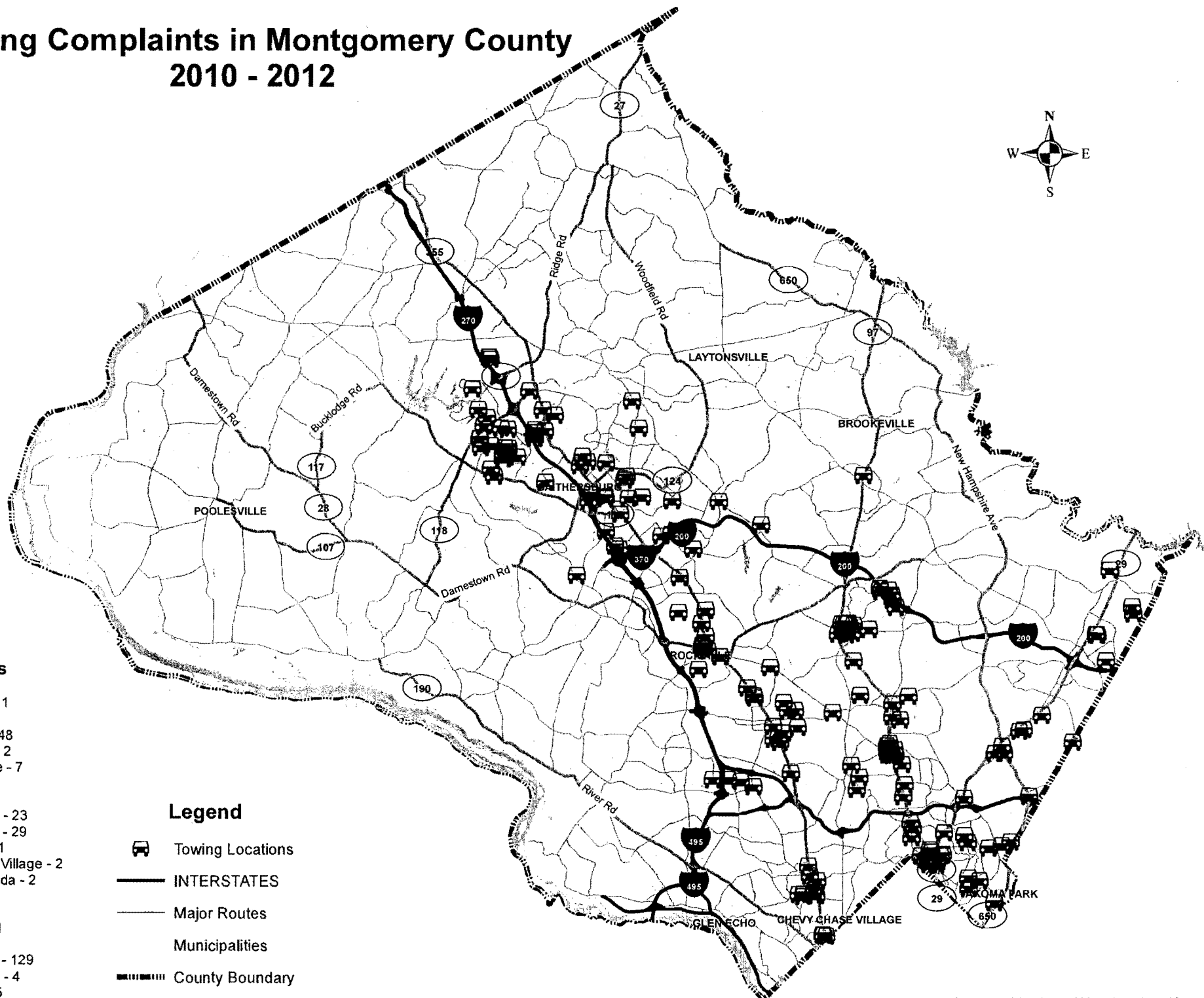
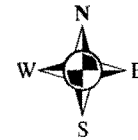
Montgomery County Office of Consumer Protection

2012 Towing Law Comparison

Section	Subject	Maryland Provision	Section	Montgomery County Provision
		Subsection A requires tower to immediately deliver vehicle directly to storage facility stated on signs posted in accordance with 21-10A-02; keep vehicle at storage facility for at least 72 hours; and provide owner immediate and continuous opportunity, 24 hours per day, 7 days per week to recover the vehicle	30C-8(a)(5)	only corresponding county provision states that the storage site must remain open for redemption of vehicles at least 2 hours after the completion of the last tow - STATE LAW IS MORE STRINGENT so state law must be followed for parking lots
	Incomplete tows	Subsection B says before vehicle is removed from lot, tower shall release the vehicle: at the request of the owner; if the vehicle can be driven; whether or not it has been lifted off the ground; and if the owner pays a drop fee in an amount not exceeding 50% of the cost of a full tow	30C-7; 30C-2(c)	county law says tower can't charge for releasing vehicle unless it is attached to the tow truck and lifted at least 6 inches off the ground; also provides that a police officer can order tower to release vehicle at any time; if is at least 6 inches off the ground, the fee cannot exceed 1/2 the attachment fee set by the county - state law would apply to parking lots except for vehicles that can't operate without power.
	Payment options	Subsection C says storage facility shall accept payment by cash OR at least two major credit cards; and if the storage facility accepts only cash, have an ATM on premises; it also says the storage facility must make the vehicle available to the owner, insurer or a secured party for inspection or retrieval of personal property that is not attached to the vehicle	30C-8(b)	county law requires towers to accept cash AND either a credit card or personal check, at the option of the tower - COUNTY LAW IS MORE STRINGENT and would apply; however, state law (C)(2) would apply
21-10A-06	Violation of Subtitle	says "any person who undertakes the towing or removal of a vehicle from a parking lot" is liable for actual damages as a direct result of violation and triple the amount paid to retake vehicle	30C-9	county law says tower AND property owner are jointly and severably liable for violation and damages are 3 times the amount of any fees charged - laws are similar as to towers, both laws apply

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


Towing Complaints in Montgomery County 2010 - 2012



City Totals

- Aspen Hill - 11
- Beltsville - 1
- Bethesda - 48
- Burtonsville - 2
- Chevy Chase - 7
- Derwood - 3
- Fairland - 4
- Gaithersburg - 23
- Germantown - 29
- Kensington - 1
- Montgomery Village - 2
- North Bethesda - 2
- Olney - 3
- Potomac - 1
- Rockville - 51
- Rossmore - 3
- Silver Spring - 129
- Takoma Park - 4
- Wheaton - 15

Legend

-  Towing Locations
-  INTERSTATES
-  Major Routes
-  Municipalities
-  County Boundary

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OFFICE OF CONSUMER PROTECTION

COPY

Isiah Leggett
County Executive

Eric S. Friedman
Director

May 7, 2012

The Honorable Doyle Niemann
3806 32nd Street
Mt. Rainier, MD 20712

RE: Impound Towing

Dear Mr. Niemann:

This is to advise that, notwithstanding your good intentions, our office is concerned that the enactment of SB401 - HB160 will be detrimental to our Office's ability to enforce Montgomery County's impound towing law.

Specifically, the difficulty of not being able to precisely determine when and where the state regulations preempt local law may serve to further complicate the already challenging task of addressing predatory and aggressive towing practices. This absence of statutory clarity would be confusing for towing firms, and make it difficult for them to comply with the correct law. This could also be used by defense counsel to thwart legal action for violations of the applicable towing law.


Our office has prepared a side-by-side comparison of the state law and Montgomery County's law (see attached). The phrase "more stringent" is used in the state law, and was presumably inserted to address situations where both state and local law exists. However, this phrase only appears to apply to one of the three sections of the state law. In addition, it is difficult or impossible to determine which provision is "more stringent" with respect to many statutory provisions.

Impound towing complaints are the single largest category of complaints currently being received by our office. We are working with Montgomery County's Police Department, Regional Service Centers, and County Council Members to address predatory and abusive towing practices. Our Police Department is concerned about the inordinate amount of time and resources they are spending regarding altercations related to impound towing and with regard to safety issues.

The Honorable Doyle Niemann
May 7, 2012
Page 2.

Our office is in the process of contacting other local jurisdictions in Maryland to determine the extent to which they may share our concerns. I would appreciate the opportunity to meet with you to fully discuss this matter and to collectively determine the best course of action. Please feel free to contact me directly at (240) 777-3719. Thank you for your time and concern to this matter.

Sincerely,



Eric S. Friedman
Director

ESF/wd

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Meeting with Delegate Doyle Niemann
July 26, 2012

1. Is the “more stringent” language interpreted by an overall comparison of the State and County statutes, or is it determined by a comparison of each specific provision in the respective laws?

2. How is a determination made as to which specific provision is “more stringent” when it is difficult or unclear to objectively measure?

Examples:

Signs: (21-10A-02): State law says signs must be 24x30, clearly visible to a driver entering or parked in parking lot, and placed to provide at least 1 sign for every 7500 square feet of parking space. County law is not as specific – signs must be clearly readable from each parking area and entrance; must be sized, printed and located so readable in day and night. Which is “more stringent”?

Also for signs – state law requirements for what must be on the signs are significantly different from county requirements. Which is “more stringent”?

Payment options: (21-10A-05(C)): State law says shall accept payment by cash OR credit cards. County law requires accepting payment by cash AND either credit card or check. It appears that county law is more stringent; however, county law does not require an ATM on the premises or to make the vehicle available for inspection. Which is “more stringent”?

3. How do you resolve the conflict between “in a more stringent manner” vs. “unless set by local law” language contained in different sections?

Subsection A of Section 21-10A-04 specifically says “unless otherwise set by local law.” This Subsection covers many different subjects, thus creating a scenario where you have to go provision by provision to determine whether County law has already spoken to the issue. This will be very complicated for towers as just within this one subsection, sometimes county law will govern and sometimes state law will govern.

Examples:

A(1): county law does set rates for towing and storage, so COUNTY law would apply.

A(2): county law does set requirements for notification to police, so COUNTY law would apply.

A(3): county law does not set requirements for notification, so STATE law would apply.

A(4): county law does not set requirements to provide itemized costs of providing notice so STATE law would apply.

A(5): county law does set requirements for authorization, so COUNTY law would apply.

A(6): county law does set insurance requirements, however, they refer to the coverage that the state requires, so BOTH end up applying.

A(7): county law does not specifically set a prohibition on spotters, so STATE law would apply

A(8): county law does set a prohibition on payment to a property owner, so COUNTY law would apply.

A(9): county law does not set a prohibition on towing solely for a violation of failure to display a valid current registration, so STATE law would apply.

There is no mention of the "more stringent manner" language used. This would seem to indicate that, in this Subsection, it does not matter whether county law is more stringent or not – if county law already exists, it will govern. Therefore, although the state's requirements for authorization in A(5) may be "more stringent," since the county has its own law on authorization, the county law will still be the one to apply.

4. How do you reconcile indirect conflicts between the requirements of the state law and the county law?

State law only applies to towing from parking lots. County law applies to towing from private property – not limited to parking lots. Does this mean our whole law is "more stringent"?

State law says can't do towing unless have signs. County law says can't do towing without public notice, but does not have to be signs, can use stickers in certain circumstances. Does this mean the state law is "more stringent" and the county can no longer allow stickers to be used instead of signs?

Subsection A of 21-10A-05 requires that vehicle owners be able to retrieve their vehicles 24 hours per day, 7 days per week. It appears that State law is "more stringent" in that regard. However, as noted above, there may be a conflict because of the reference to requirements of 21-10A-02 which deals with signs. Since it is possible that 21-10A-02 does not apply in the county, how do you address this?

It is unclear on how the liability for violations of the laws will be handled. Damages/penalties would depend on whether state or county law was violated. Can localities enforce state law provisions?

5. To what extent does creating a statewide towing law result in all applicable County laws being automatically repealed pursuant to section 25-101(c) of the Transportation Article?

6. To what extent is Bill # 401 subject to Federal preemption pursuant to the Federal Aviation Administration Act of 1994?

7. Is there a state law that expressly authorizes the right for one party to seize and hold the property of another party without any judicial adjudication, or is such action an outgrowth of the common law remedies for trespass?

8. To what extent does the prohibition against 3rd party "spotters" address the practice of the tow truck operator serving as a "spotter" in addition to performing the tow?

9. To what extent was the enactment of Bill # 401 intended to address nonconsensual towing problems in Montgomery County?

10. Would you consider amending the law so that it does not apply in Montgomery County?